

1 WILLIAM D. HYSLOP
2 United States Attorney
3 Eastern District of Washington
4 Benjamin D. Seal
5 Assistant United States Attorney
6 402 E. Yakima Avenue, Suite 210
7 Yakima, Washington 98901
8 (509) 454-4425

9
10
11 UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF WASHINGTON
13
14

15 UNITED STATES OF AMERICA,

1:16-CR-2047-SMJ

16 Plaintiff,

17 vs.
18 GOVERNMENT'S SENTENCING
19 MEMORANDUM FOR
20 RESENTENCING

21 GERARDO MADEROS LORETO,

22 Defendant.

23
24 The United States of America, by and through WILLIAM D. HYSLOP,
25 United States Attorney for the Eastern District of Washington, and Benjamin D.
Seal, Assistant United States Attorney, submits the following Government's
Sentencing Memorandum.

26 I. Base Offense Level and Enhancements

27
28 The PSIR provides for a total offense level of 39, criminal history VI, with a
guideline range of 360 months to life.

The Government agrees with the guideline calculations in the PSIR.

1 II. Departures

2 The Government is not aware of any departures that are warranted.

3 III. 18 U.S.C. § 3553(a)

4 The guideline range of 360 months to life provides a reasonable sentence
5 sufficient, but not greater than necessary, to comply with the purposes set forth in 18
6 U.S.C. § 3553.

7 This case resulted from Defendant's repeated efforts to arrange for the murder
8 of his ex-girlfriend, A.G. After their breakup, A.G. obtained a court order prohibiting
9 Defendant from contacting her directly or through third parties. Defendant
10 disregarded this order in violent fashion, resulting in his imprisonment. Defendant
11 continued to contact A.G. from prison, especially after he learned that she was
12 pregnant with another man's child. Though his friends encouraged him to leave A.G.
13 alone, Defendant's intent towards A.G. became more violent, and he attempted to hire
14 someone to kill A.G. The police intervened and Defendant was indicted for use of the
15 mail to commit murder for hire. After his federal indictment, Defendant continued to
16 try to hire someone to kill A.G., resulting in new charges of murder for hire and
17 methamphetamine distribution.

18 Defendant's behavior shows a total disregard for the law, an unwillingness to be
19 deterred from criminal conduct, and a persistent intent to commit violent crimes.

20 Defendant's history and characteristics also support a sentence within the
21 guideline range. Defendant is a Norteno gang member, and at one time held an
22

1 important leadership position in the gang. Defendant used his gang connections to
2 facilitate commission of the crimes in this case. Defendant has a long criminal history
3 including multiple convictions for burglary and illegal possession of a firearm.
4

5 IV. Defendant's Conduct Post-Sentencing: November 4, 2019 Escape
6 Attempt.

7 On November 4, 2019, Defendant attempted to escape from the Yakima County
8 Jail by breaking a hole through the ceiling of his cell. The hole was apparently
9 discovered before Defendant had an opportunity to use it to leave the cell.
10

11 On November 4, 2019, a DOC officer conducted a walkthrough of D unit where
12 Defendant was being held. The officer walked by cell 10 and observed a large hole in
13 the ceiling of the cell. Defendant was the only occupant of cell 10. The officer
14 handcuffed Defendant and escorted him out of the cell. Defendant had superficial
15 scratch marks on both of his forearms. An officer contacted Defendant in order to
16 photograph the scratch marks on Defendant's forearms, however, Defendant refused
17 to display his arms to be photographed. Officers searched Defendant's cell. They
18 found no contraband or anything suspicious other than debris from the ceiling. In
19 order to create the hole, Defendant broke through first a layer of cement type
20 substance, then through a metal layer of mesh. A report and photographs of the hole
21 created by Defendant are attached as Attachment A.
22
23
24
25
26
27
28

1 V. Defendant's Conduct Post-Sentencing: Stabbing in BOP Custody

2 As mentioned in the PSR (¶189), Defendant was involved in a stabbing that
3 occurred while in BOP custody. A summary of the incident is as follows.

4 On November 30, 2018, a man with the initials J.L. arrived at USP Florence, a
5 high security penitentiary located in Colorado. At that time Defendant was serving his
6 sentence in the same facility.

7 J.L. is a former member of the Ogden Trece, which is a gang from Utah that
8 uses the number “13” to represent them. As a result, J.L. has the number “13” tattooed
9 on his body. The number “13” is also known to be used by the Surenos, but J.L.
10 explained to intake officers that the tattoos on his body using “13” were not related to
11 the Surenos. In fact, J.L. explained that Surenos were enemies of the Ogden Trece.
12 J.L. was told he could be placed in protective custody, however, J.L. said he wanted to
13 be in general population.

14 A day or two after J.L. arrived at USP, he went out to talk to a couple of other
15 inmates from Utah and was introduced to a couple of inmates from Texas. J.L.
16 explained that he was a member of the Ogden Trece gang, so his “13” tattoos did not
17 mean he was a Sureno gang member. Some of the inmates indicated they understood
18 because other Ogden gang members had walked the yard at USP Florence. J.L. had
19 this conversation multiple times with multiple inmates during his first two days at
20 USP Florence.

1 Nevertheless, on December 2, 2018, as J.L. was walking by two other inmates,
2 the two inmates brandished knives and began stabbing J.L. One of these inmates who
3 stabbed J.L. was Defendant.

4 After being stabbed multiple times, blood started squirting from J.L.'s ear and
5 oozing from his right arm. Officers quickly arrived and used OC spray on Defendant
6 and the other stabber. The stabbing was captured on video and officers recovered the
7 knives used in the attack.

8 J.L. was transported to Parkview hospital following this incident. He was
9 treated for multiple stab wounds, which were approximately one to two centimeters in
10 size. He had wounds behind his left ear, on his shoulders, left anterior chest, midline
11 back, and abdomen. He was diagnosed with a hernia, some pneumoperitoneum, and
12 some hearing loss as a result of the wound behind his left ear. J.L. received surgery to
13 repair the hernia and his wounds were sutured. J.L. was released from Parkview and
14 returned to the USP on December 6, 2018. However, he subsequently developed a
15 severe infection in his stomach wound and an additional hernia. The hernia caused
16 J.L.'s stomach to distend. The distension initially was the size of a golf ball, but later
17 grew to the size of a basketball.

18

19 VI. Sentencing Recommendation

20 Based on the conduct charged in the Indictment as well as Defendant's conduct
21 post-sentencing, the Government recommends a sentence of 396 months.

22 DATED this 12th day of November, 2019.

1 WILLIAM D. HYSLOP
2 United States Attorney
3 s/Benjamin D. Seal
4 BENJAMIN D. SEAL
5 Assistant United States Attorney
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2 **CERTIFICATE OF SERVICE**
3
4
5

6
7 I hereby certify that on November 12, 2019, I electronically filed the foregoing
8 with the Clerk of the Court using the CM/ECF System, which will provide notice to
9 the counsel of record in this case.
10
11

12 s/ Benjamin D. Seal
13 Benjamin D. Seal
14 Assistant United States Attorney
15 United States Attorney's Office
16 402 E. Yakima Ave., Suite 210
17 Yakima, WA 98901
18 (509) 454-4425
19 Fax: (509) 249-3297
20
21
22
23
24
25
26
27
28